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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,877	02/08/2002	Robert C. Downs	36-001810US	9765

22798 7590 04/21/2004

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EXAMINER

SINES, BRIAN J

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/071,877

Applicant(s)

DOWNS ET AL.

Examiner

Brian J. Sines

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-113 is/are pending in the application.
- 4a) Of the above claim(s) 59-84 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20, 24-44, 48, 56, 58 and 85-113 is/are rejected.
- 7) ☒ Claim(s) 21-23, 45-47, 49-55 and 57 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some \* c) ☐ None of:
    - 1. ☐ Certified copies of the priority documents have been received.
    - 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of group I, claims 1 – 58 and 85 – 113 in the response filed 1/20/2004 is acknowledged. Claims 59 – 84 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the robot recited in part (c) of claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

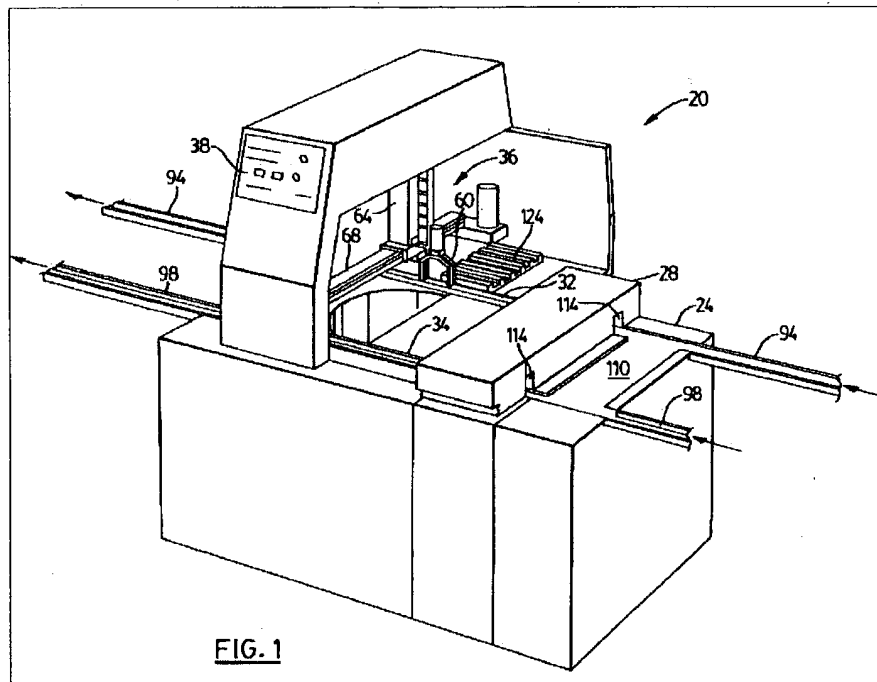
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

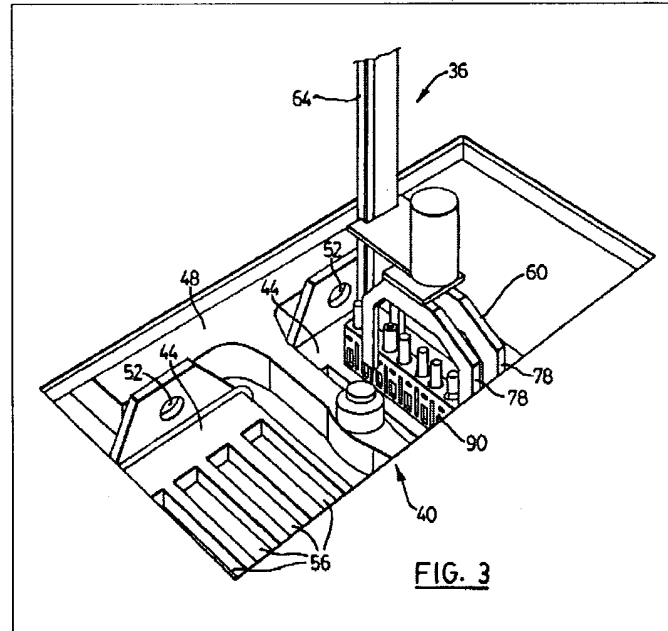
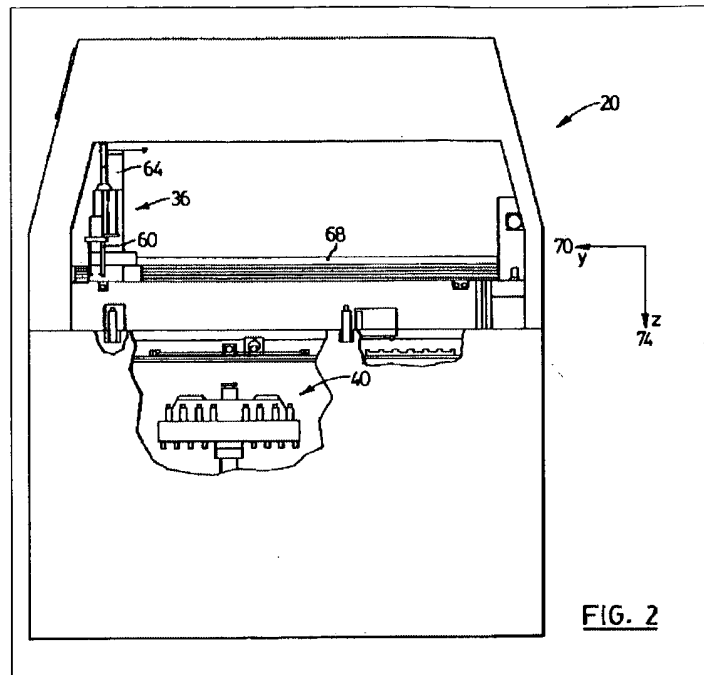
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

1. Claims 1, 4 – 20, 24 – 40, 48, 56, 58 and 85 – 113 are rejected under 35 U.S.C. 102(b) as being anticipated by Quinlan et al. (U.S. Pat. No. 5,769,775 A). Quinlan et al. teach an

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automated centrifuge apparatus comprising: a rotor (40) comprising a plurality of sample receiving regions (56); and a transport mechanism (24, 94, 98) configured to move one or more sample processing components proximal to or within the plurality of sample receiving regions; and at least one robot (36) capable of inserting at least two sample vessels (44) into the sample receiving regions (56) (see col. 3, lines 15 – 67; col. 4, lines 1 – 65; figures 1 – 3).

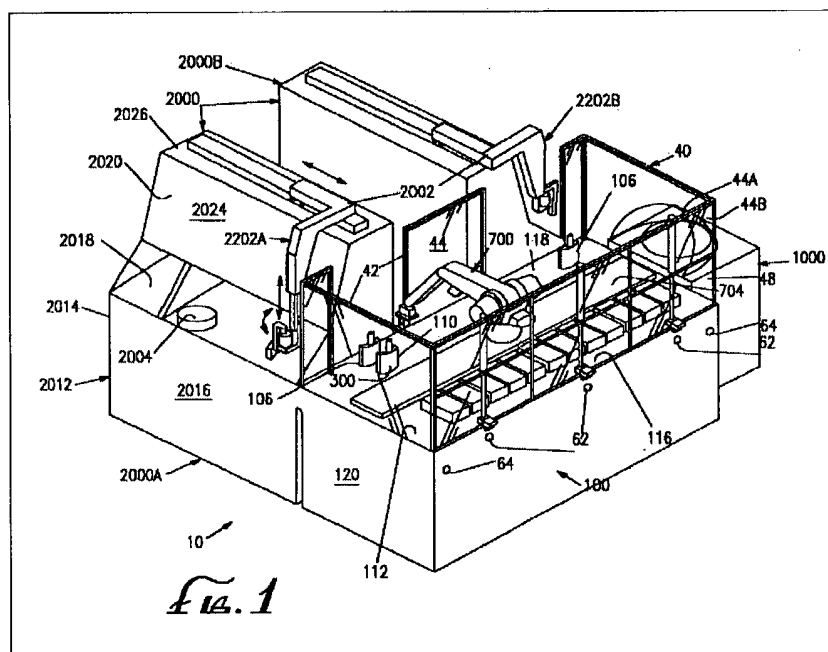


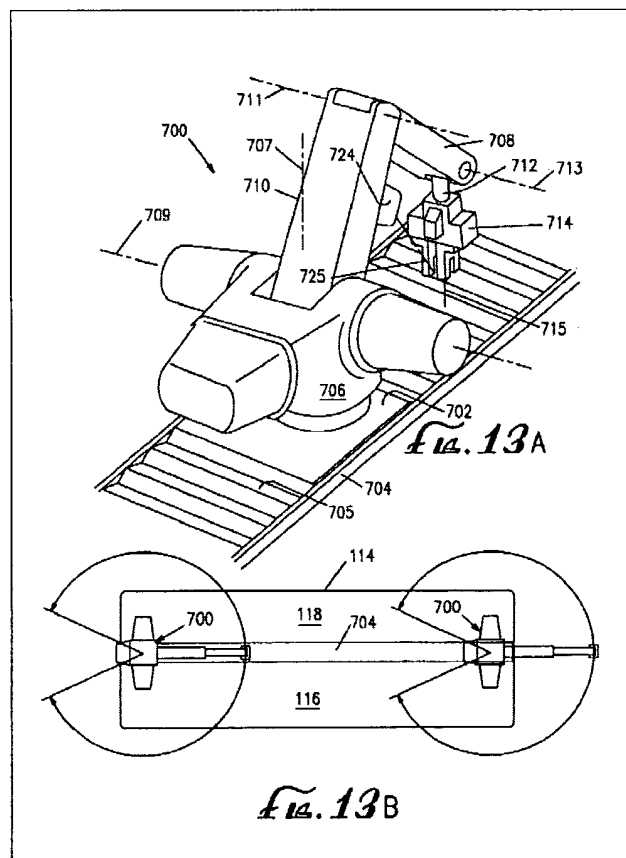
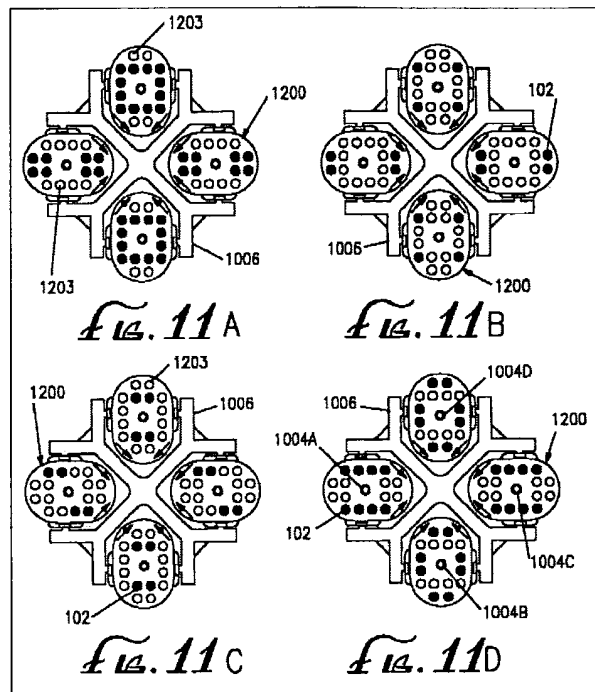


2. Claims 1 – 20, 24 – 44, 48 and 85 – 113 are rejected under 35 U.S.C. 102(e) as being anticipated by Pang et al. (U.S. Pat. No. 6,060,022 A). Pang et al. teach an automated centrifuge apparatus comprising: a centrifuge rotor (1000) comprising a plurality of sample receiving

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regions (1200); and a transport mechanism (700) configured to move one or more sample processing components proximal to or within the plurality of sample receiving regions; and at least one robot (2002) capable of inserting at least two sample vessels, such as test tubes, into the sample receiving regions (1200) (see col. 1, line 1 – col. 14, line 64; figures 1 – 21). The apparatus includes an optical position sensor and an indicia scanner (see col. 8, lines 1 – 32). The apparatus comprises two analyzers for selectively performing at least two different analyses on a specimen (see col. 6, lines 51 – 67).





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***Allowable Subject Matter***

Claims 21 – 23, 45 – 47, 49 – 55 and 57 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The cited prior art neither teach or fairly suggest the further incorporation of the claim limitations recited by claims 21 – 23, 45 – 47, 49 – 55 and 57 within the apparatus of either Quinlan et al. or Pang et al.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hubert et al. teach an automated centrifuge loading device. Riggs teach an automated blood sample processing system comprising a centrifuge system. Auchinleck teaches an automatically-loaded centrifuge system.

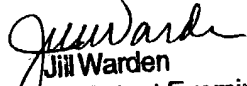
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Sines, Ph.D. whose telephone number is (571) 272-1263. The examiner can normally be reached on Monday - Friday (11:30 AM - 8 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700